



# **mississippi river corridor critical area**



2013-2014 Rulemaking Project



# MEETING PURPOSE

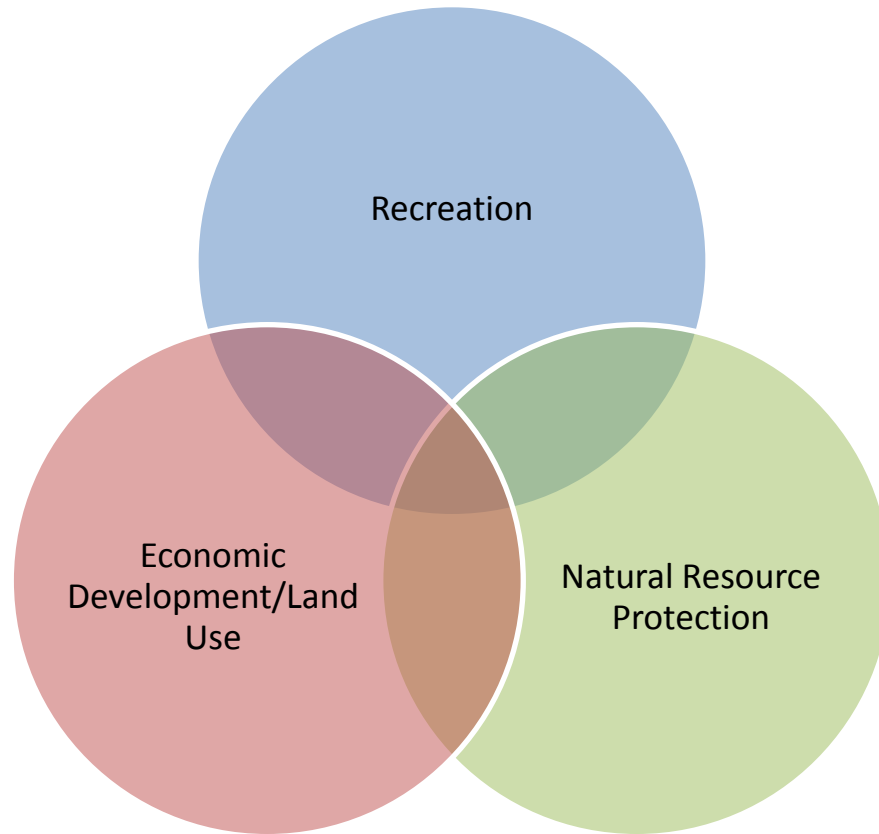
1. Review the history of the MRCCA
2. Why is rulemaking needed?
3. Discuss program roles and responsibilities
4. Provide overview of Working Draft Rules
5. Review schedule
6. Prepare you to comment on the draft rules





# DNR'S ROLE.....

Balance Needs &  
Interests and  
Guide Decision-  
making on Tough  
Decisions





# AGENDA

Overview and History of the MRCCA

Legislative Direction for Rulemaking

Process and Public Outreach to Date

Brief Overview of Working Draft Rules

Next Steps – Opportunities for Input

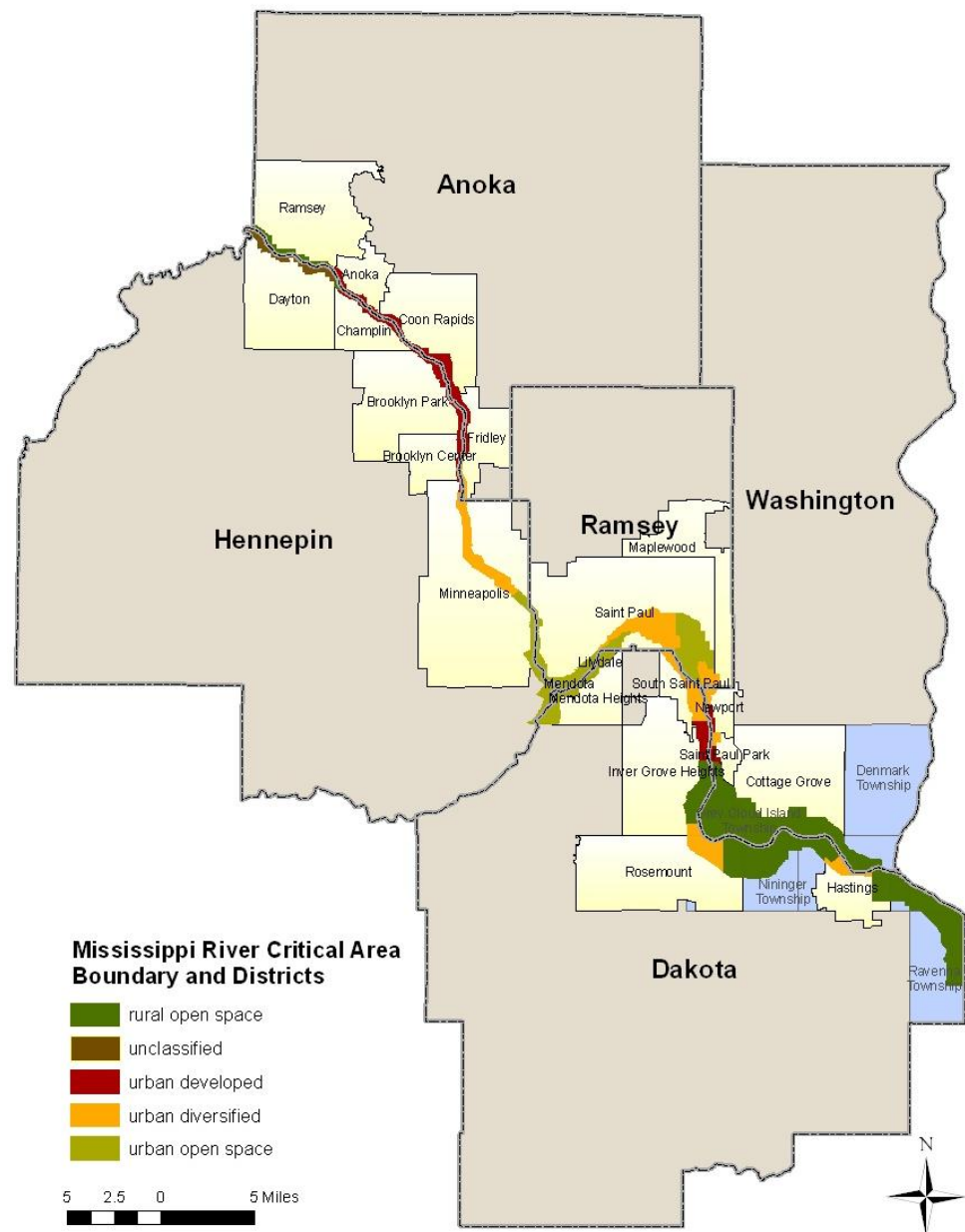
Q & A





# THE MRCCA IS.....

**Land corridor** along the Mississippi River in the 7-county metro area where there are **special land use regulations** that guide development activity.





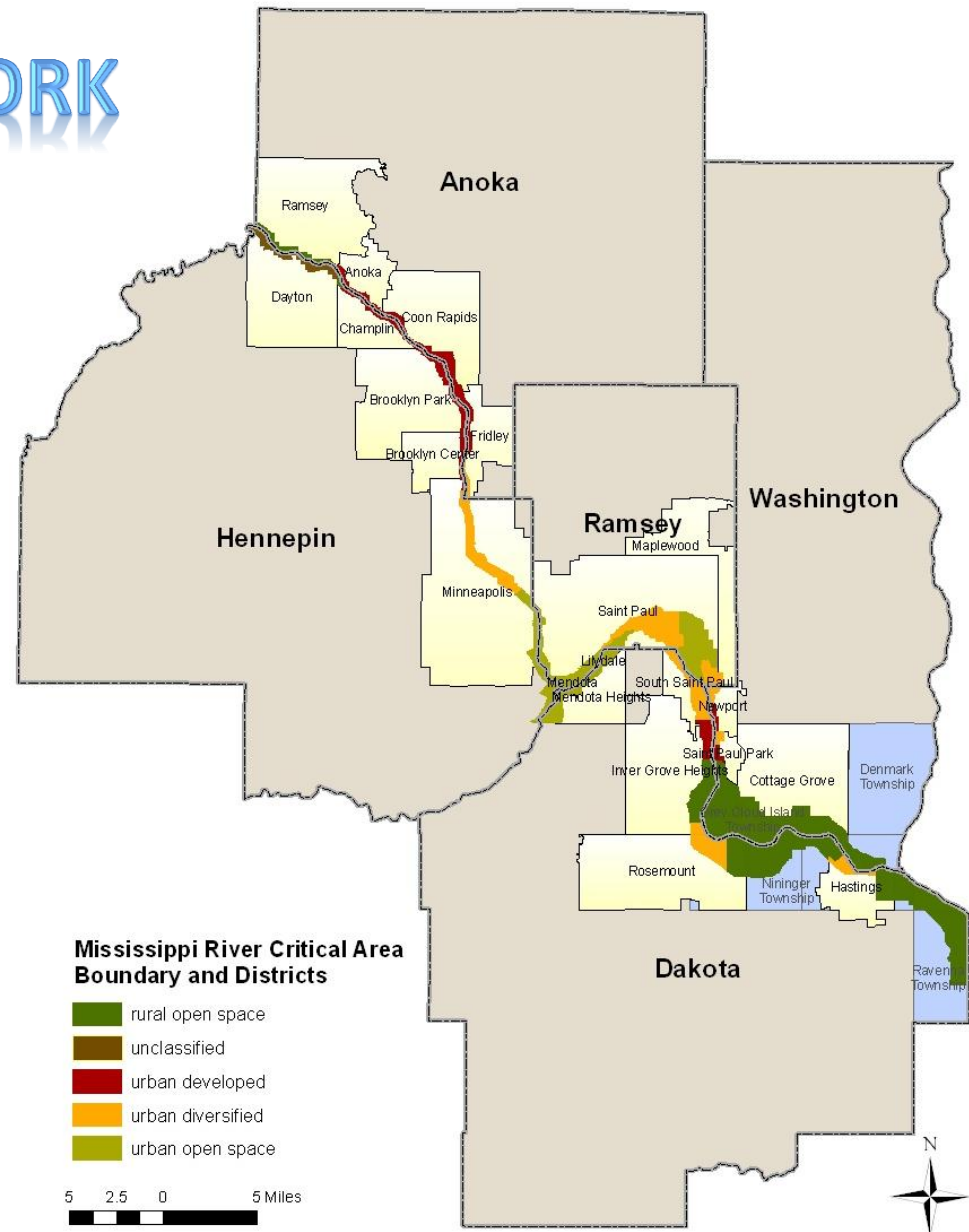
# REGULATORY FRAMEWORK

## Plans

- Land use policies & guidelines
- Park & trail development
- Restoration
- Consistent with regional policies

## Regulations (Ordinances)

- Use districts
- Dimensional standards
- Performance standards





# ROLES & RESPONSIBILITIES

## LGUs

**LGUs – administer & enforce local controls**



**DNR – Reviews/approves plans & ordinances**



**Metropolitan Council – Review plans & ordinances, makes recommendations**



**National Park Service – MNRRA, stewardship, education, and planning**



# THE CORRIDOR IS USED & VALUED BY MANY.....





# REGULATORY HISTORY OF THE MRCCA.....

<b>1973</b>	<b>Minnesota passes Critical Areas Act of 1973 (MN Statutes, Chapter 116G) EQB adopts rules to implement Act (MN Rules, parts 4410.8100 – 4410.9910)</b>
<b>1976</b>	<b>Mississippi River and adjacent corridor designated a state critical area by Governor Wendell Anderson (Executive Order No. 130)</b>
<b>1979</b>	<b>Designation continued by Governor Albert Quie (Executive Order 79-19) Metropolitan Council acts to make designation permanent (Resolution 79-48)</b>
<b>1988</b>	<b>Mississippi National River and Recreational Area (MNRRA) established by Congress as unit of NPS (MNRRA shares same boundary as Mississippi River Corridor Critical Area)  MNRRA designated a state critical area per Critical Areas Act (MN Statutes, section 116G.15)</b>
<b>1995</b>	<b>Responsibility shifts from EQB to DNR by Governor Arne Carlson (Reorganization Order 170)</b>
<b>2007</b>	<b>Legislature directs DNR to prepare report on the Mississippi River Corridor Critical Area (Completed January 2008)</b>
<b>2009</b>	<b>Legislature amends MN Statutes, section 116G.15 and directs DNR to conduct rulemaking for the Mississippi River Corridor Critical Area (MN Laws 2009, Chapter 172, Article 2, Section 5.e.)</b>
<b>2013</b>	<b>Legislature amends MN Statutes, section 116G.15 and directs DNR to conduct rulemaking for the Mississippi River Corridor Critical Area (MN Laws 2009, Chapter 172, Article 2, Section 5.e.)</b>



# PROBLEMS WITH EXECUTIVE ORDER 79-19

**Can't be updated**

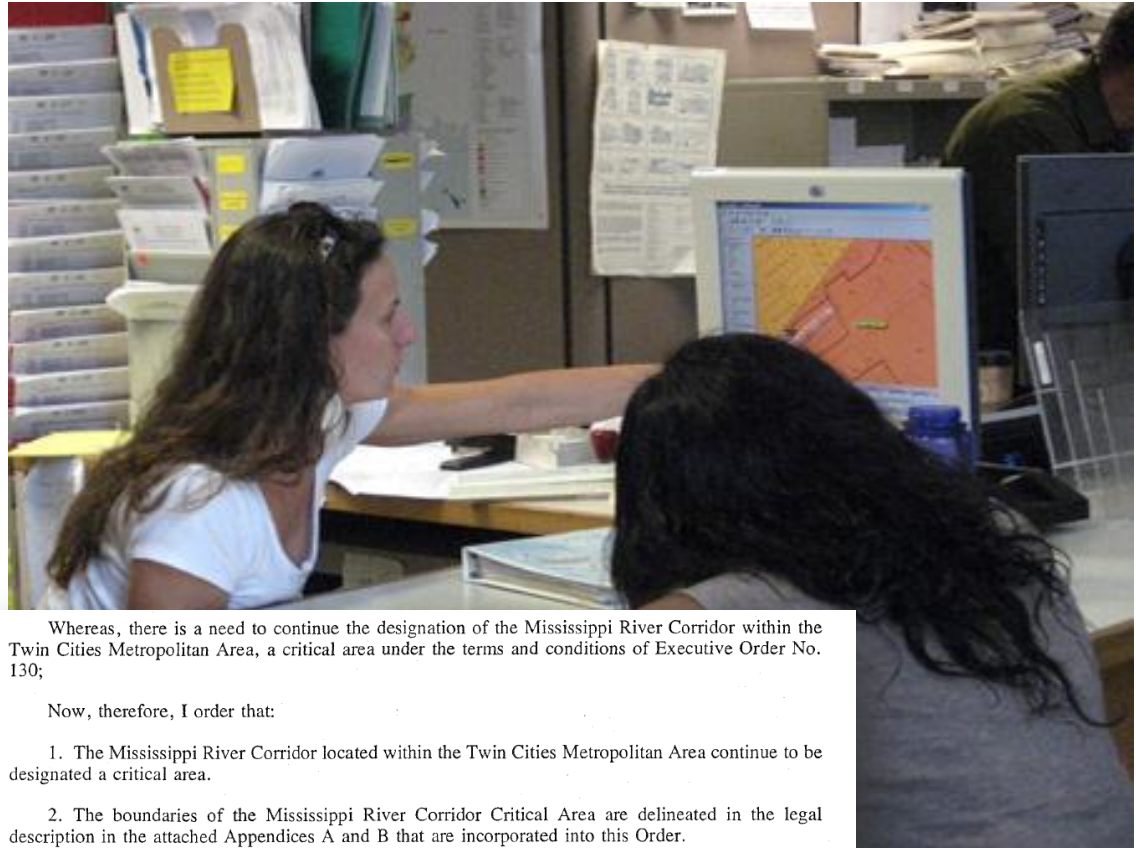
**Outdated & vague  
performance based  
language**

**Inconsistently applied**

**Costly for state and local  
government to administer**

**Limits redevelopment &  
reinvestment**

**Many resources, no  
priorities**



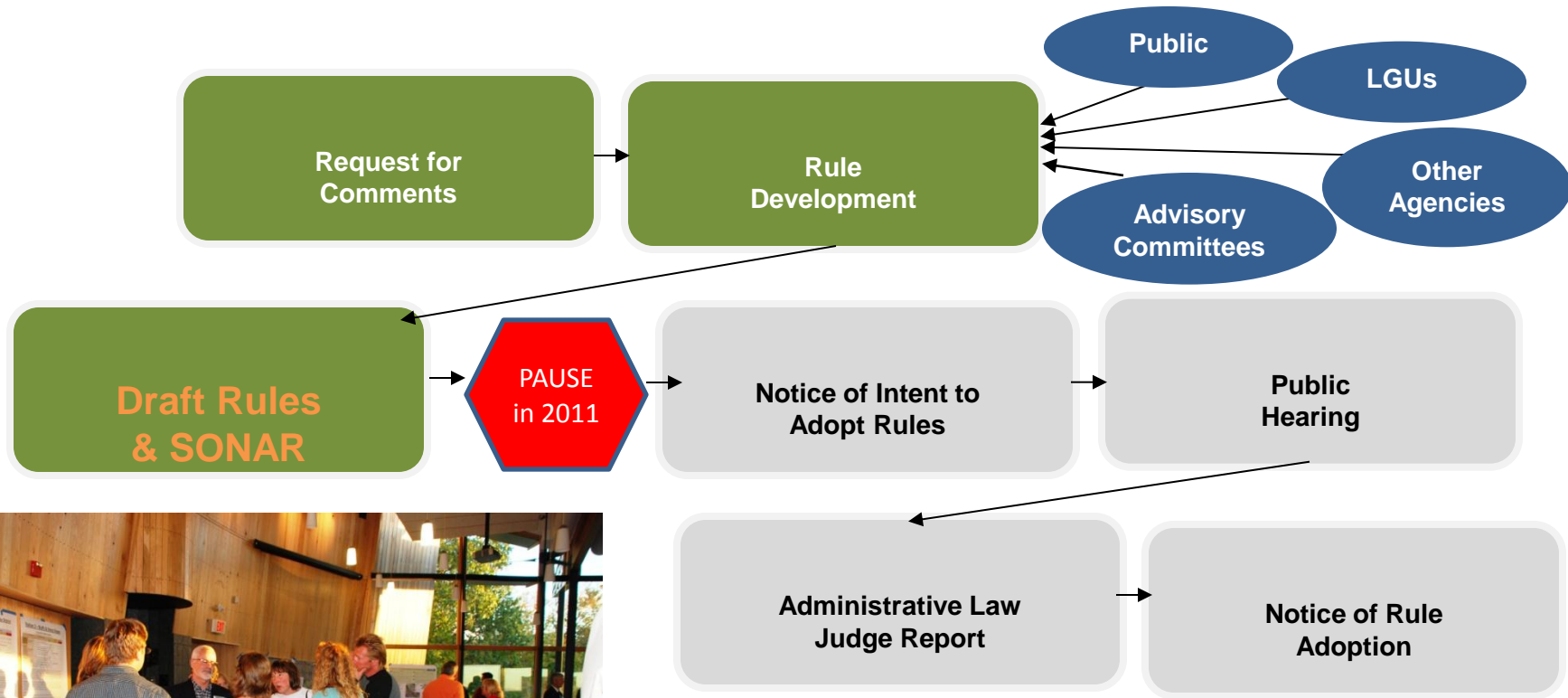
Whereas, there is a need to continue the designation of the Mississippi River Corridor within the Twin Cities Metropolitan Area, a critical area under the terms and conditions of Executive Order No. 130;

Now, therefore, I order that:

1. The Mississippi River Corridor located within the Twin Cities Metropolitan Area continue to be designated a critical area.
2. The boundaries of the Mississippi River Corridor Critical Area are delineated in the legal description in the attached Appendices A and B that are incorporated into this Order.
3. The Standards and Guidelines to be followed by local units of government, regional agencies and state agencies in the preparation and adoption of plans and regulations for the Critical Area are attached and incorporated hereby into this Order.
4. The Interim Development Regulations to be followed in granting development permits during the Interim Period are attached and incorporated hereby into this Order.
5. The Department of Natural Resources shall prepare the Scenic and Recreational Plan for the



# 2009-2010 RULEMAKING PROCESS.....





# 2013 LEGISLATIVE DIRECTION.....

## Make rules for Critical Area:

**Consultation with local governments prior to rule adoption**

**Added “redevelopment” and “recreational” uses**

**Modified considerations for creating new districts - greater consideration of potential new development**

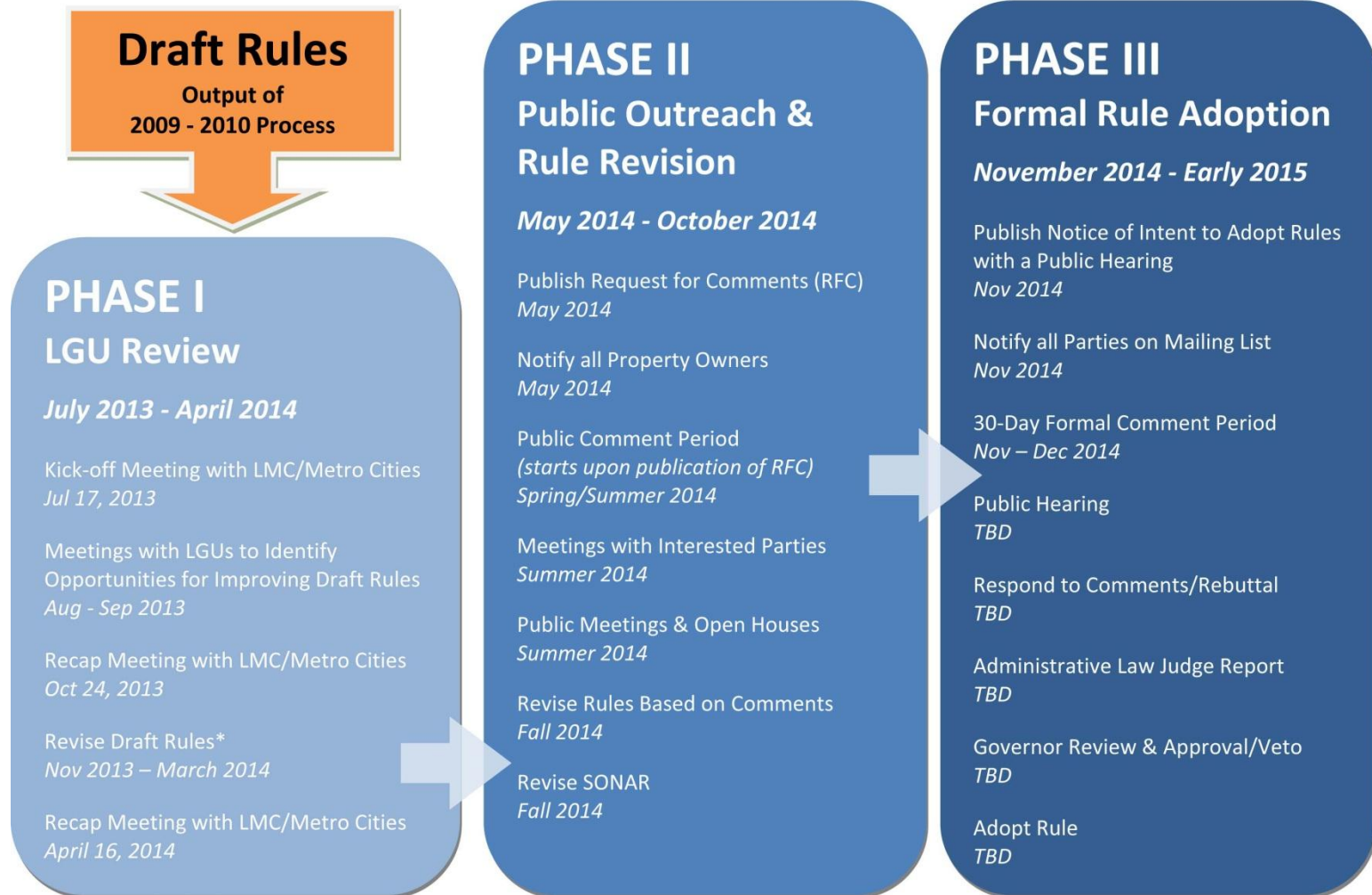
**Removed the creation of a bluff map**





# PROCESS FOR NEW RULEMAKING.....

## 2013-2015 MRCCA Rulemaking Schedule



\*Report to Legislature submitted January 15, 2014

Minnesota Department of Natural Resources, last updated April 8, 2014



# **RULEMAKING GOALS.....**

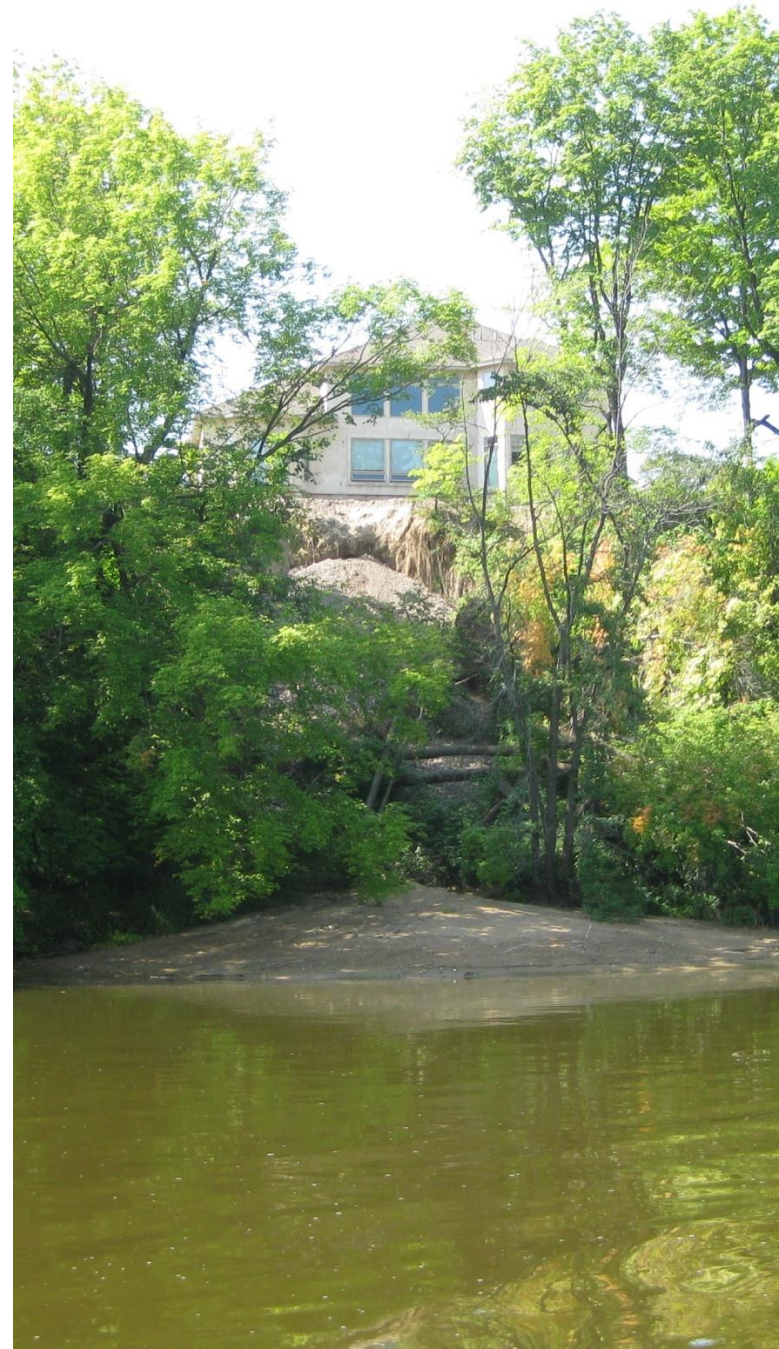
**Maintain & improve water and resource protection**

**Better recognize existing & planned development**

**Increase flexibility for LGUs**

**Focus rules on those measures that can realistically achieve resource protection**

**Simplify administration, clarify language, improve organization**





# MAJOR THEMES

**Greater recognition of local zoning on:**

- **Height**
- **Lot size**
- **Open space dedication**

**Continuance of nonconformities**

**Stronger rules for vegetation and land alteration with focus on ecological functions**

**Technical improvements:**

- **Simplified admin procedures**
- **Clear language**
- **Better rule organization**
- **Clarity for DNR evaluation**





# PREPARATION & APPROVAL OF ORDINANCES

**Plan and ordinance review procedures  
(changes to MS 116G.15 needed)**

## **Plan Contents**

- **Primary conservation areas**
- **Priorities for restoration**

## **Ordinance Contents**

- **Dimensional standards**
- **Development standards**
- **Other provisions**

**Flexibility Requests – when and criteria for approval**

**Plans / Projects of state and regional agencies**





# ADMINISTRATIVE PROVISIONS FOR ORDINANCES

**Nonconforming structures may be expanded without variance or mitigation**

**New structures built to “average” setbacks considered conforming**

**List of suggested mitigation measures removed**





An aerial photograph of a river winding through a densely forested landscape. A multi-lane bridge crosses the river in the center. The surrounding areas are covered in thick trees, with some residential or commercial buildings visible in the distance. The entire image has a reddish-brown tint.

# .0100 DISTRICTS



# DISTRICTS

**CA-1 & CA-2 Districts have been combined –**

**Now 6 districts:**

**CA-ROS: Rural & Open Space (CA-1 & CA-2)**

**CA-RN: River Neighborhood (CA – 3)**

**CA-RTC: River Towns & Crossings (CA-4)**

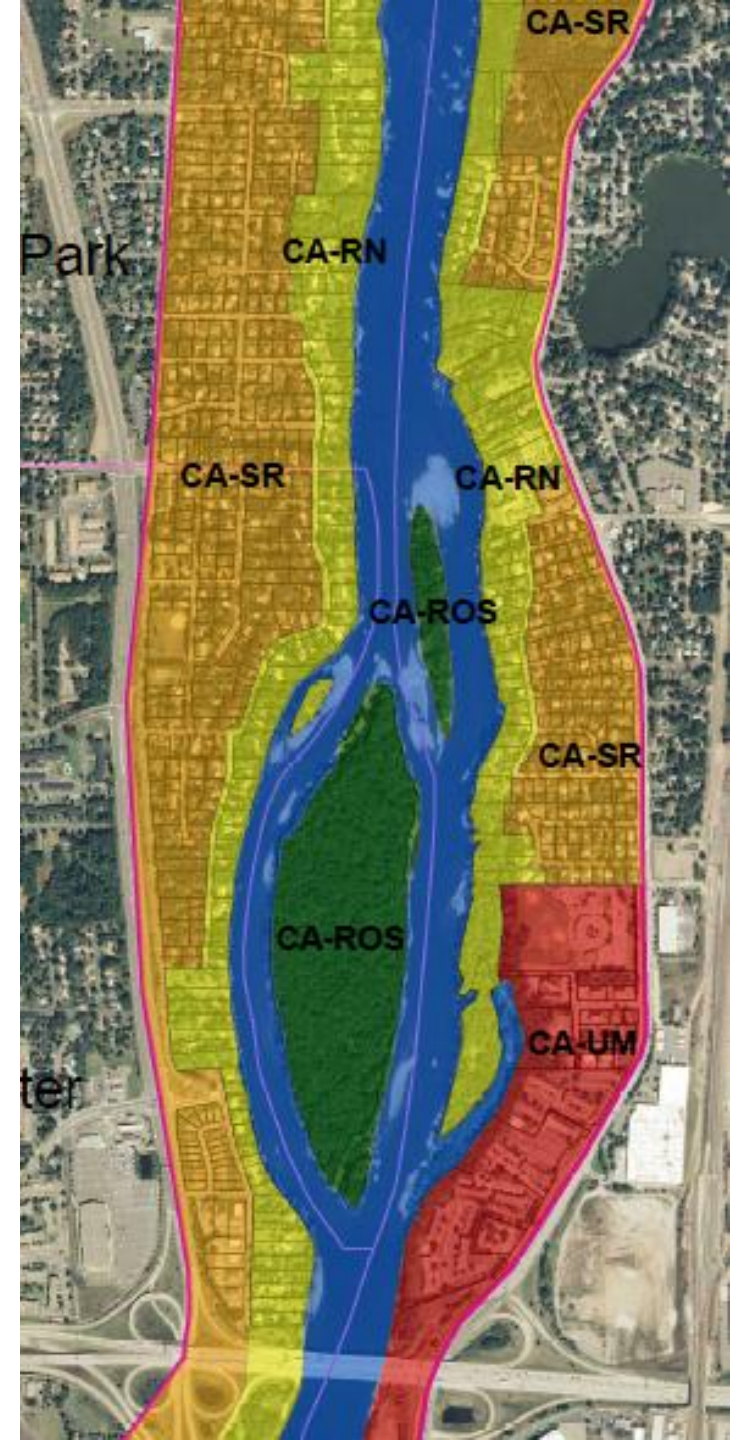
**CA-SR: Separated from River (CA-5)**

**CA-UM: Urban Mixed (CA-6)**

**CA-UC: Urban Core (CA-7)**

**Descriptions have been refined:**

- **Character vs. land use**
- **Management purpose**



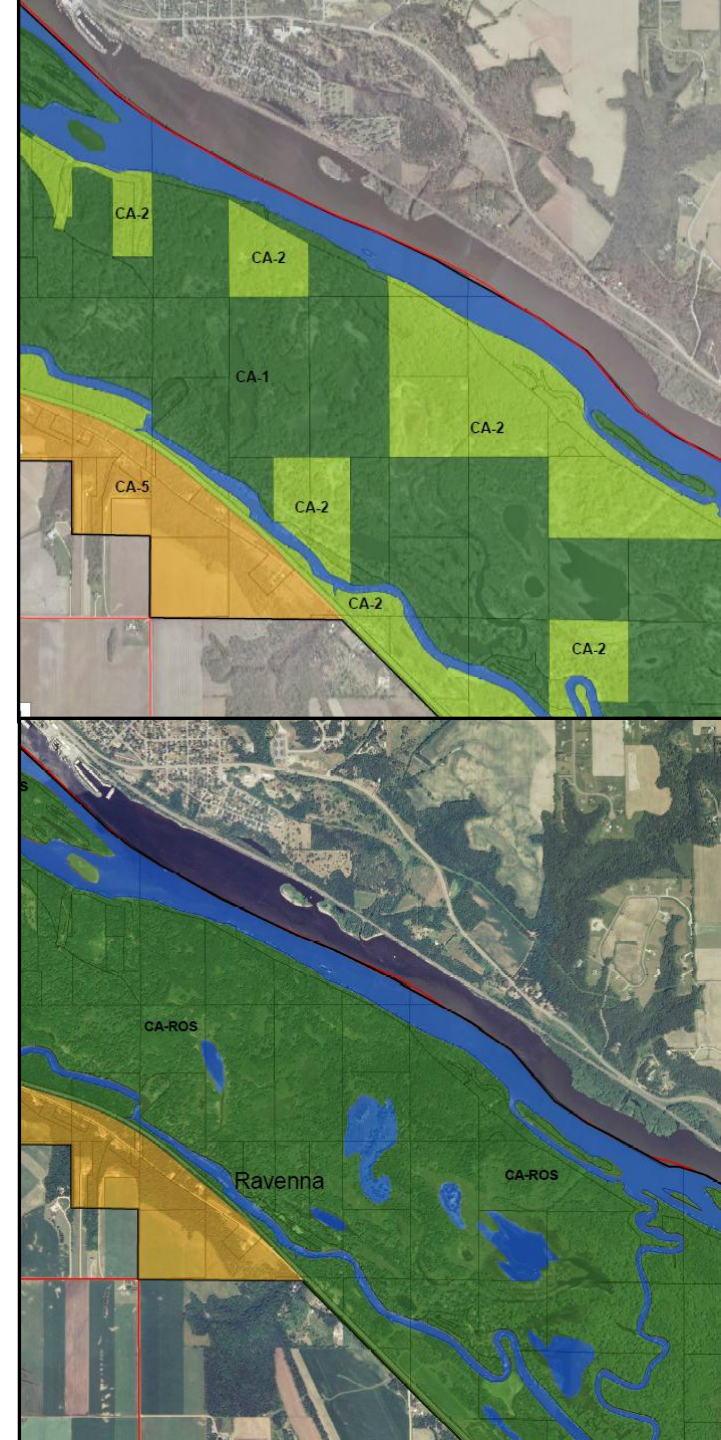


# DISTRICTS

Changed some districts/boundaries based on LGU requests & DNR observations to:

- Better reflect current and proposed development
- Eliminate/reduce nonconformities
- Promote greater consistency
- Reduce inequities

Clarified criteria for boundary adjustments



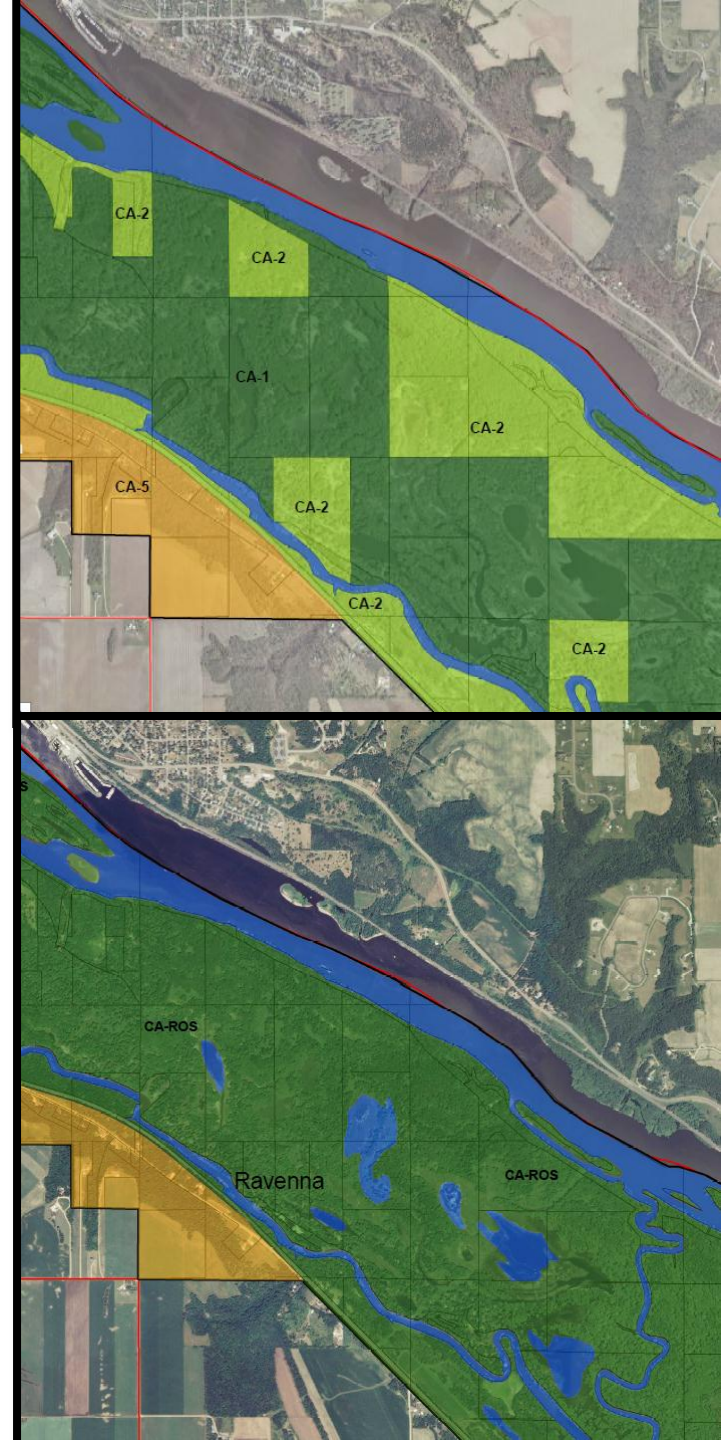


# DISTRICTS: CA-ROS

*“rural low density development patterns and land uses, and includes land that is riparian or visible from the river, as well as large, undeveloped tracts of high ecological value, floodplain, and undeveloped islands. Many primary conservation areas exist in this district.”*

**Minimum lot size/width = underlying zoning**

**Maximum height 35’**





## DISTRICTS: CA-RN

*“residential neighborhoods that are riparian or readily visible from the river or that abut riparian parkland.”*

**Maximum height 35’**

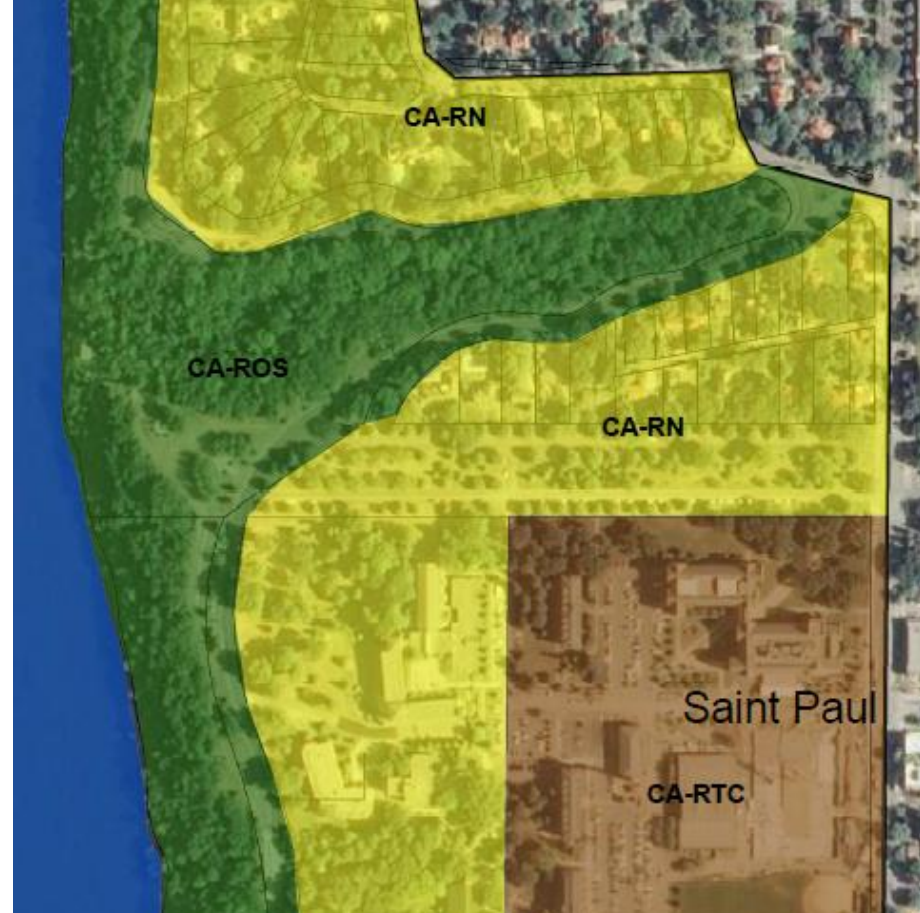




# DISTRICTS: CA-RTC

*“historic downtown areas and limited nodes of intense development at river crossings, as well as institutional campuses that predate designation of the MRCCA and include taller buildings.”*

**Height range for discussion – 48-56 feet, CUP for taller buildings**

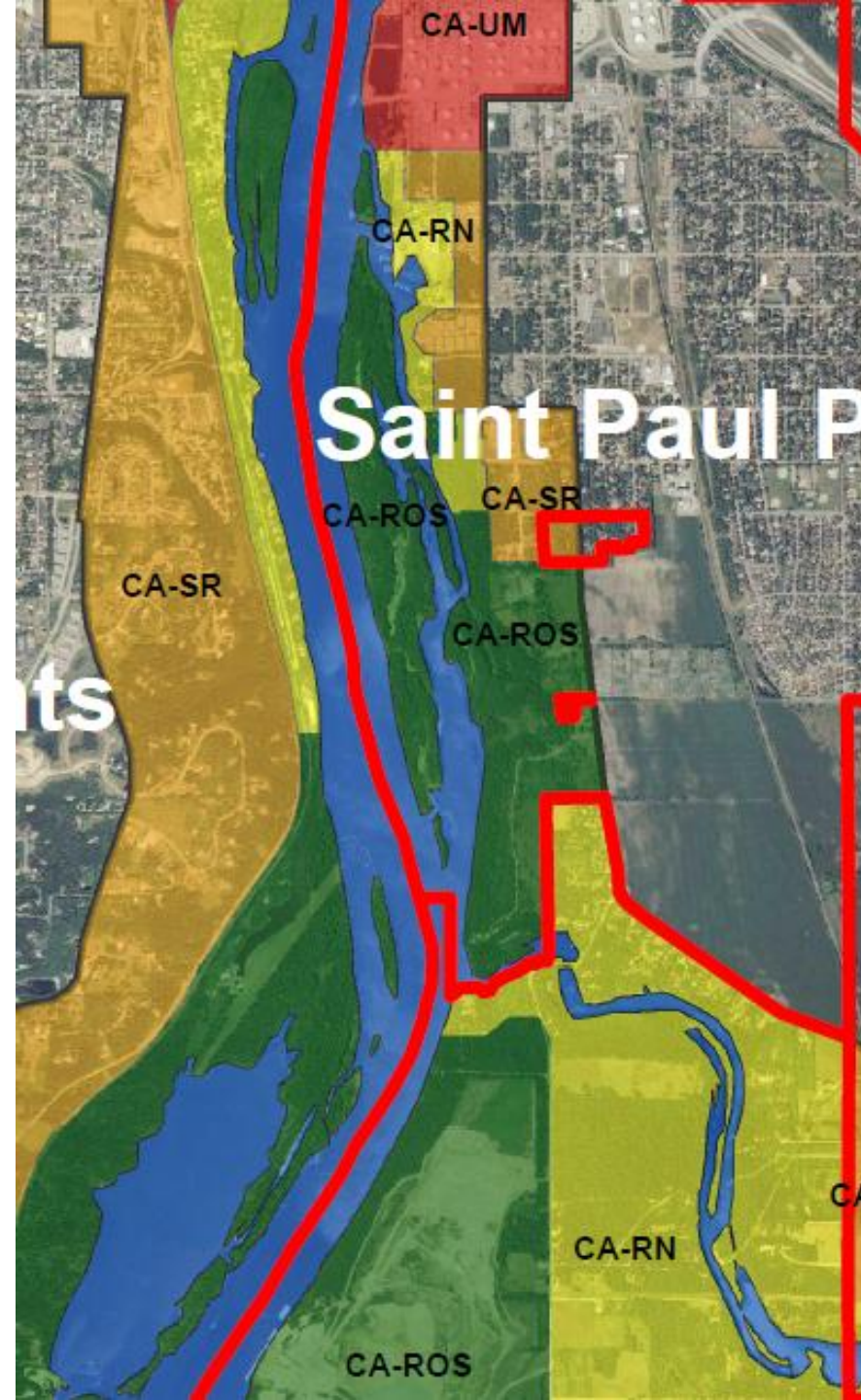




## DISTRICTS: CA-SR

*“The CA-SR district is characterized by its physical and visual distance from the river. It includes land separated from the river by distance, development, or a transportation corridor. The land in this district is not readily visible from the river but may be visible from public land across the river.”*

**Height: underlying zoning / consistent with surrounding development**



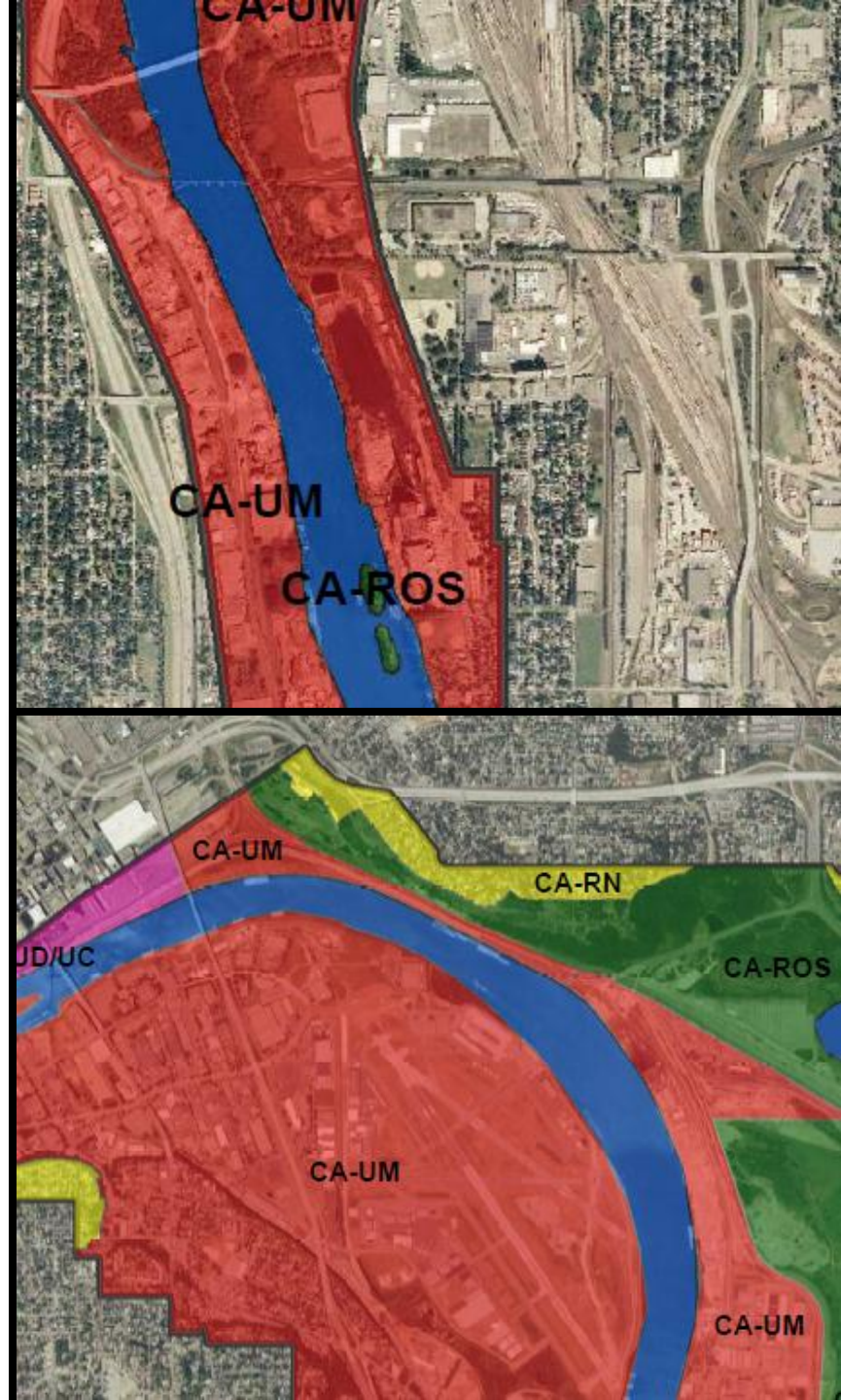


## DISTRICTS: CA-UM

*“large areas of highly urbanized, mixed-use areas that are a part of the urban fabric of the river corridor, including institutional, commercial, and industrial areas.”*

**Height of 65' with taller buildings by CUP**

- **Criteria added for visual impact assessment**
- **Input requested**





# HEIGHT: EVALUATE VISUAL IMPACT

## CUP Criteria (CA-RTC and CA-UM)

- Visual impact assessment process (MNRRA VRPP)
- Minimize perceived bulk
- Preserve view corridors in LGU plans
- Protect/enhance public river corridor views
- Increase setback of taller structures from river & bluffs



# DISTRICTS: CA-UC

*Urban cores of Minneapolis and Saint Paul – managed with greatest flexibility*

**Height limit: underlying zoning**

**Underlying zoning governs setback from river (bluff and slope setbacks still apply)**





# HEIGHT

CA-ROS.....35 ft

CA-RN.....35 ft

CA-RTC.....48 – 56 ft, CUP for taller

CA-SR.....Underlying zoning

CA-UM.....65 ft, CUP for taller

CA-UC.....Underlying zoning

**Tiering - CA-RTC and CA-UM**

**Public River Corridor Views – CA-RTC,  
CA-UM, CA-UC**

*Views toward the river from public parkland and views toward bluffs from the ordinary high water level of the opposite shore, as seen during the summer months.*

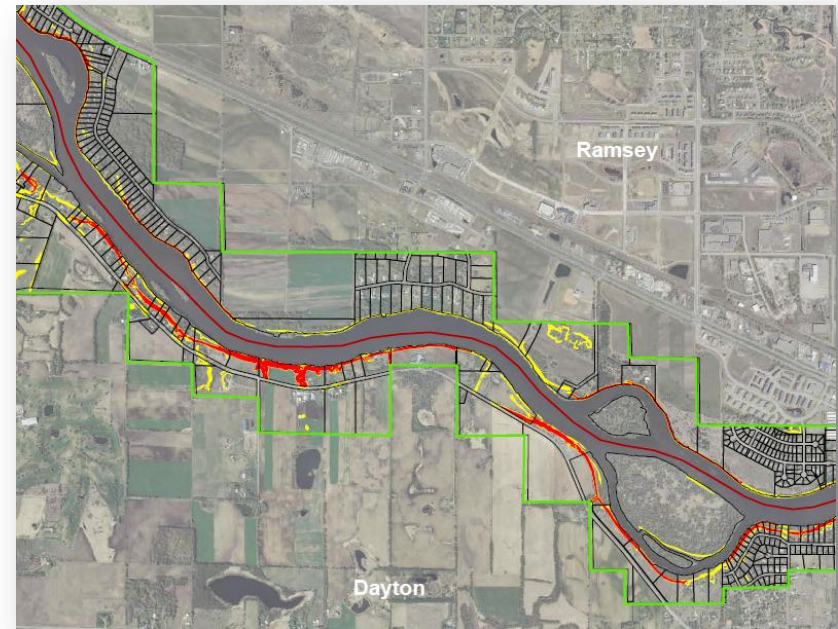




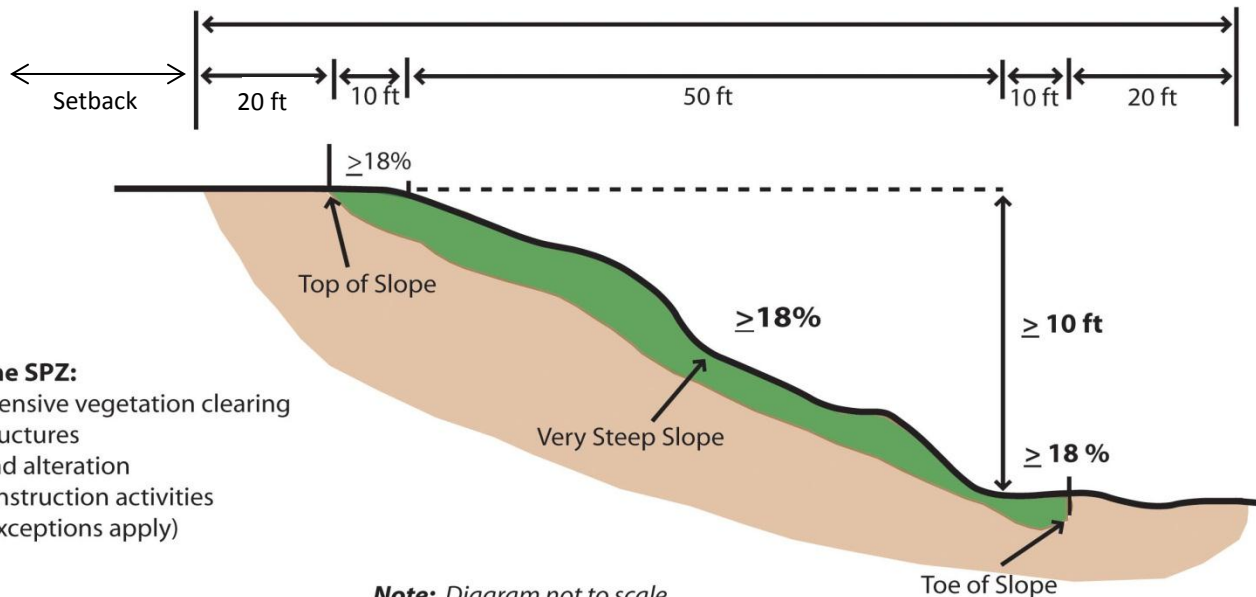
# LOCATION OF STRUCTURES

**Setback from top of very steep slope (18%) instead of bluff (30%)**

**This is a return to existing standard in most zoning ordinances (from EO 79-19)**



## Slope Preservation Zone (SPZ)



### Within the SPZ:

- No intensive vegetation clearing
- No structures
- No land alteration
- No construction activities (Exceptions apply)



**Table 1: Exemptions from Setbacks, Height Limits, and Other Requirements in parts 6106.120 through 6106.170**

Note that all exemptions in the SIZ, BIZ and SPZ are also subject to the Vegetation and Land Alteration standards in part 6106.0150 and the Storm Water Management standards in part 6106.0160.

	<b>Setbacks</b>	<b>Height Limits</b>	<b>SIZ</b>	<b>BIZ / SPZ</b>	<b>Standards (must comply with standard or referenced parts)</b>
Industrial and utility structures requiring greater height for operational reasons (i.e., elevators, refineries, railroad signaling towers, etc.)	N	E	N	N	Structure design and placement must minimize interference with public river corridor views
Barns, silos, farm structures	N	E	N	N	
Bridges, bridge approach roadways	E	E	E	E	parts 6106.0120 and 6106.0150
Cellular telephone towers		E	N	N	part 6106.0100 subp. 7
Chimneys, church spires, flag poles, public monuments, mechanical service stacks, and similar mechanical equipment	N	E	N	N	
Historic sites and districts	E	E	E	E	
Public safety facilities	E	E	E	E	parts 6106.0120 and 6106.0150
Public utilities	E	E	E	E	parts 6106.0120 and 6106.0150
Public transportation facilities	E	N	(E)	(E)	parts 6106.0120 and 6106.0150
<b>Public recreational facilities</b>					



An aerial photograph of a river winding through a landscape. A bridge crosses the river in the lower-middle section. The banks are heavily forested, with some residential or commercial buildings visible. The image has a blue tint.

**.0130 - .0140**

**DEVELOPMENT STANDARDS –  
PUBLIC AND PRIVATE**



# PUBLIC FACILITIES

**Combines public utilities, transportation, public safety, public recreation**

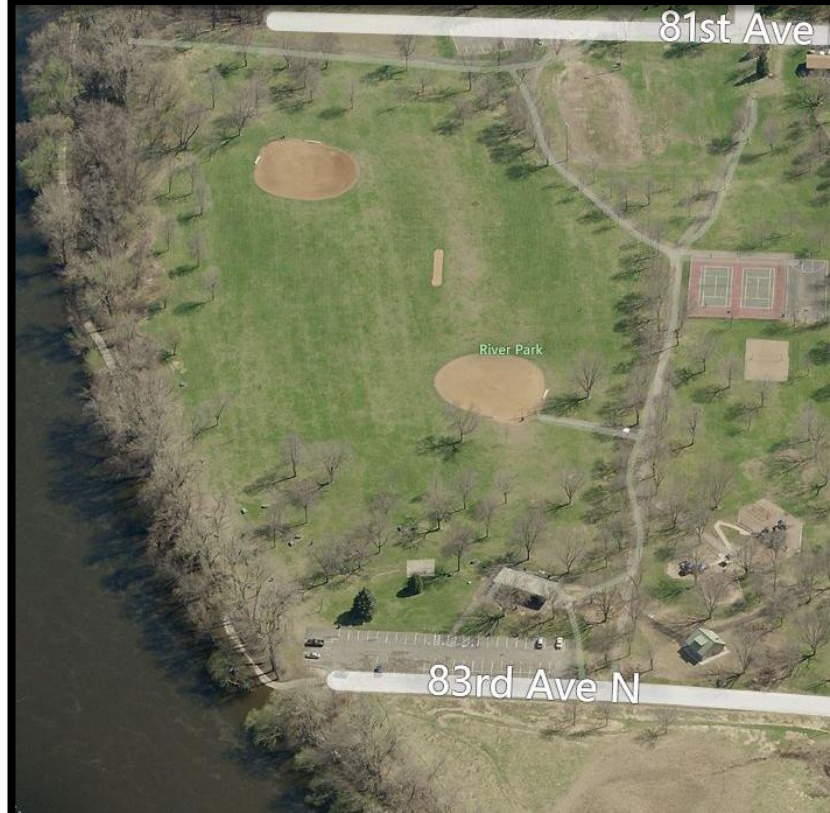
- **Many require locations in or adjacent the river corridor**

**General design standards**

**Standards for crossings of public water**

**Recreational facilities**

- **Water access facilities (boat ramps)**
- **Trails, overlooks**
- **Roads, parkways**
- **Buildings and parking (meet setbacks)**





# PRIVATE FACILITIES

Primarily residential but also private recreation such as marinas

- Stairways, lifts and landings
- Private water access paths and ramps
- Water-oriented accessory structures
- Shoreline recreation use areas
- Landscaping, patios, retaining walls in non-riparian residential yards
- Private signs




50 m

© 2014 Microsoft Corporation Pictometry Bird's Eye © 2012 MDA Ge



	Setbacks	Height Limits	SIZ	BIZ / SPZ	Standards (must comply with standard or referenced parts)
Industrial and utility structures requiring greater height for operational reasons (i.e., elevators, refineries, railroad signaling towers, etc.)	N	E	N	N	Structure design and placement must minimize interference with public river corridor views
Barns, silos, farm structures	N	E	N	N	
Bridges, bridge approach roadways	E	E	E	E	parts 6106.0120 and 6106.0150
Cellular telephone towers		E	N	N	part 6106.0100 subp. 7
Chimneys, church spires, flag poles, public monuments, mechanical service stacks, and similar mechanical equipment	N	E	N	N	
Historic sites and districts	E	E	E	E	
Public safety facilities	E	E	E	E	parts 6106.0120 and 6106.0150
Public utilities	E	E	E	E	parts 6106.0120 and 6106.0150
Public transportation facilities	E	N	(E)	(E)	parts 6106.0120 and 6106.0150
<b>Public recreational facilities</b>					
• Buildings and parking	N	N	N	N	part 6106.0120
• Roads and driveways	(E)	N	(E)	(E)	parts 6106.0120 and 6106.0150
• Picnic shelters	E	N	N	N	part 6106.0120
• Trails, access paths and viewing areas	E	N	E	E	parts 6106.0120 and 6106.0150
• Water access facilities	E	N	E	(E)	parts 6106.0120 and 6106.0150
<b>River-dependent commercial, industrial and utility uses</b>					
• Buildings and parking	N	N*	N	N	part 6106.0130 – applies to buildings not part of a shoreline facility and to all parking
• Shoreline facilities, i.e., barge and port facilities, marinas, etc.	E	N*	E	E	parts 6106.0130 and 6106.0150
• Private roads and conveyance structures serving river-dependent uses	E	N*	E	E	parts 6106.0130 and 6106.0150
<b>Private residential and commercial</b>					



An aerial photograph of a river winding through a landscape. A multi-lane bridge crosses the river in the lower-middle section. The riverbanks are heavily forested with dense green trees. In the background, there are some buildings and a road. The entire image has a greenish tint.

**.0150**

**VEGETATION MANAGEMENT &  
LAND ALTERATION STANDARDS**



# VEGETATION MANAGEMENT & LAND ALTERATION

## Themes:

- **Emphasis on ecological function of vegetation:**
  - **Soil stabilization**
  - **Runoff filtration-retention**
  - **Habitat**
- **Integration of vegetation and land alteration to support ecological function and reduce risk**
- **Permit program based on hierarchy of risk**
- **Clarity on what can and can't be done**



# LAND ALTERATION

## Permit required for disturbance of:

- (5 – 10) cubic yards, or (250 – 3,000) square feet.

## In the following areas:

- Slope preservation zone
- Bluff impact zone
- Shore impact zone or 50 feet abutting a public water, wetland, or drainageway

## Permit requirement:

BMPs sufficient to retain sediment onsite

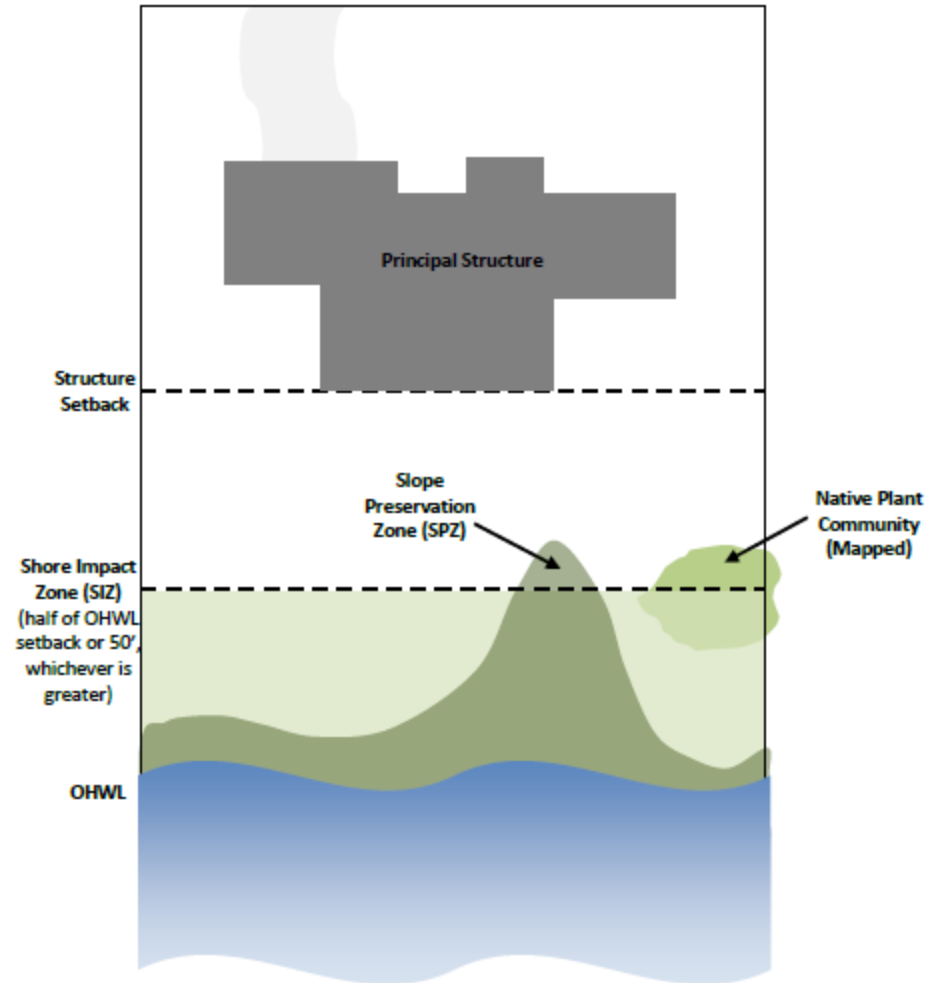




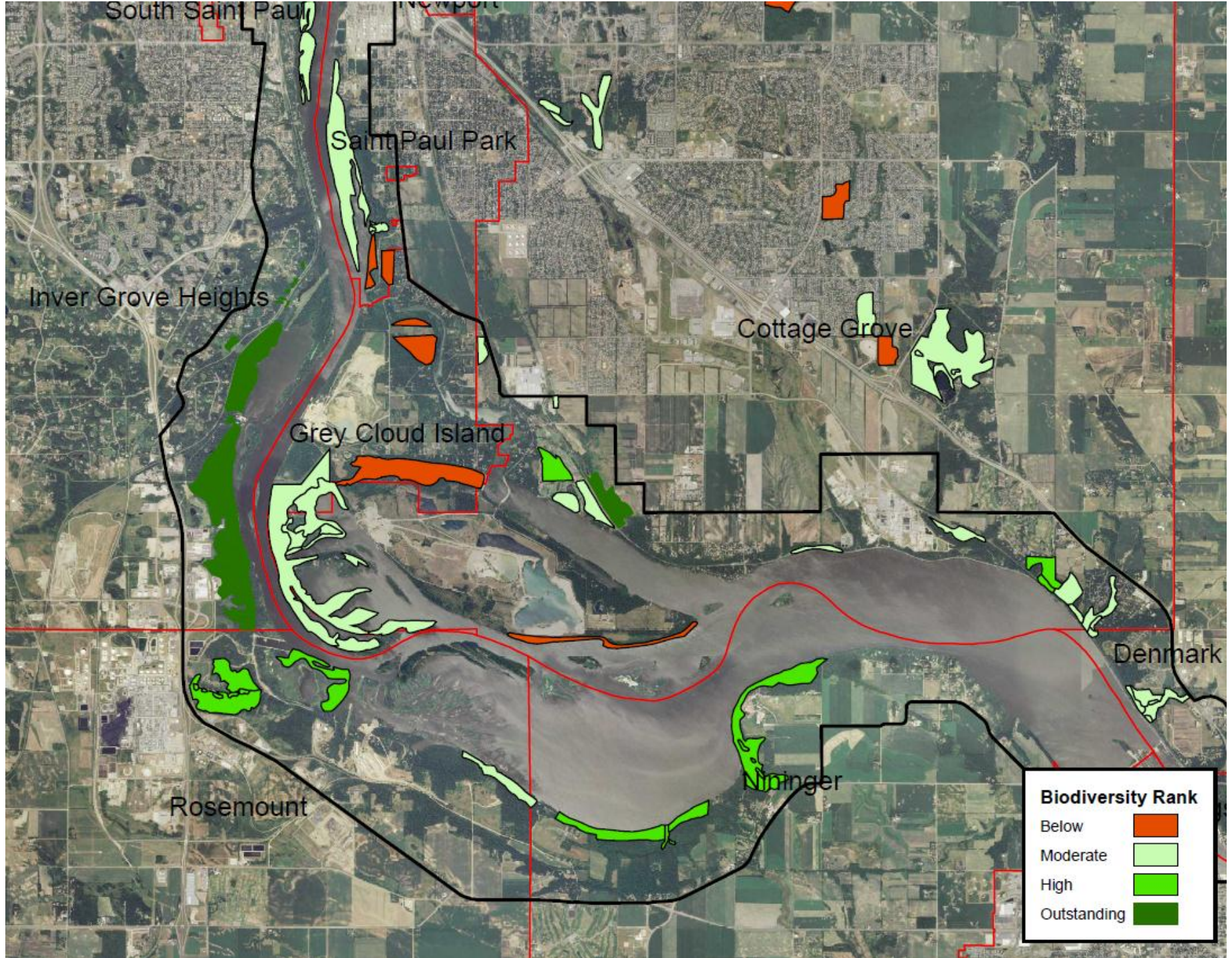
# VEGETATION MANAGEMENT

Applies in the following areas:

- Slope preservation zone
- Bluff impact zone
- Shore impact zone
- Native plant communities
- Tree canopies and significant vegetative stands in plans









# VEGETATION MANAGEMENT

**Permit not required for:**

- **Pruning & trimming**
- **Maintenance of existing lawns, landscaping & gardens**
- **Selective vegetation removal of canopy & ground cover less than:**
  - **(5-15)%**
  - **(1,000 – 5,000) square feet**





# VEGETATION MANAGEMENT

Required protection/restoration permit conditions:

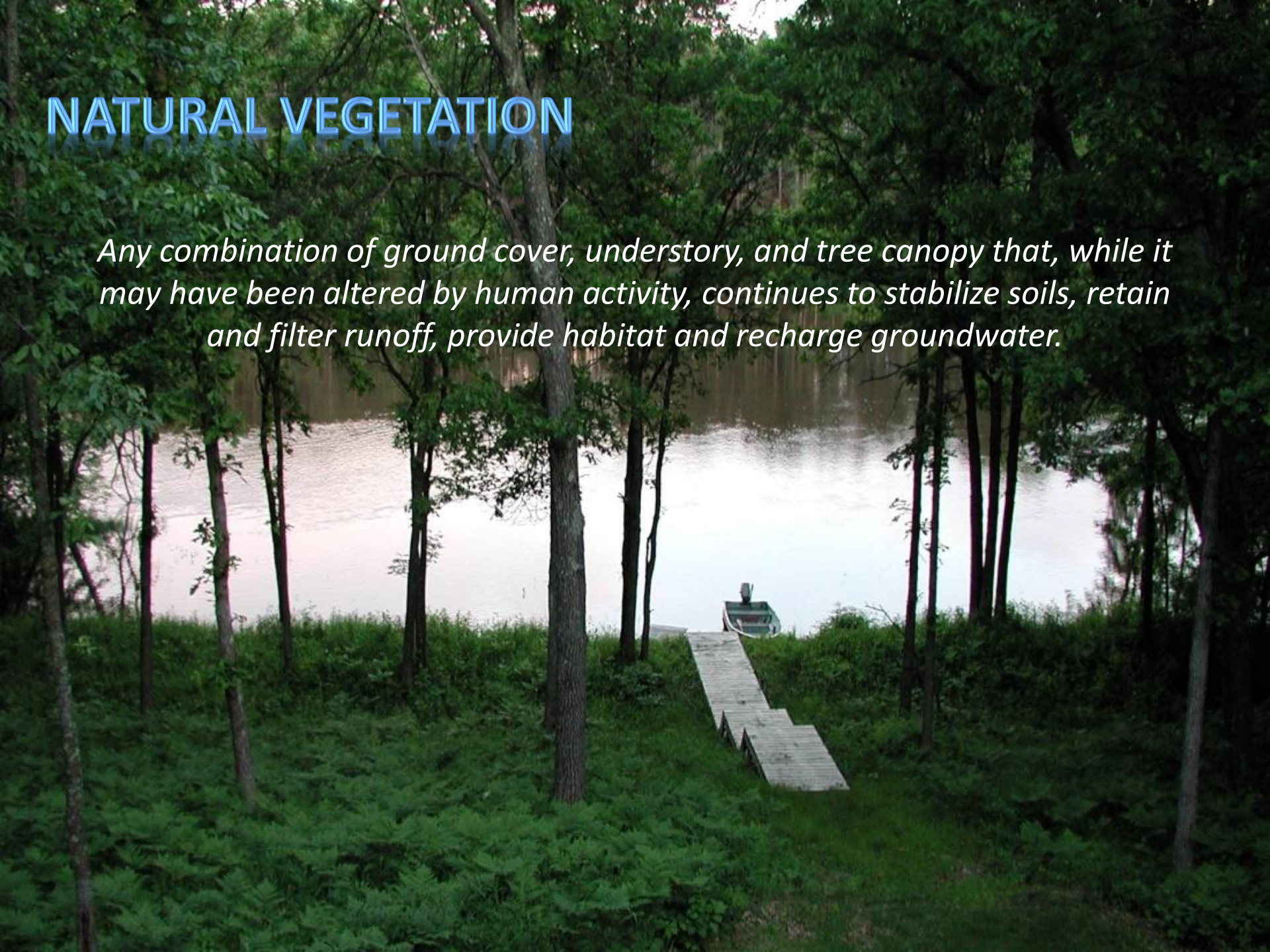
- Native plant communities must be replaced with equivalent
- Other vegetation must be replaced with natural vegetation to the greatest extent practicable
- Disturbance of highly erodible soils must be replanted with deep-rooted, high stem density vegetation
- Other conditions determined by LGU





# NATURAL VEGETATION

*Any combination of ground cover, understory, and tree canopy that, while it may have been altered by human activity, continues to stabilize soils, retain and filter runoff, provide habitat and recharge groundwater.*





# VEGETATION MANAGEMENT

Key performance standards:

- Intensive vegetation clearing prohibited
- Grading with natural topography
- LGUs cannot restrict height of ground cover
- Expose bare soil for least possible time
- Activities limited as risk increases





An aerial photograph of a river winding through a landscape. A bridge crosses the river in the middle of the frame. The surrounding area is densely forested, with some residential or commercial buildings visible in the distance. The image is in grayscale.

**.0160**

# **STORMWATER MANAGEMENT**



# STORMWATER MANAGEMENT

**Treatment required for new or fully reconstructed impervious surface of more than 10,000 square feet.**

**On**

**Parcels abutting a waterbody, wetland, or drainageway**

- **MS4s apply same treatment standards in permit**
- **Non-MS4s apply same treatment standards in NPDES construction permit**





An aerial photograph of a river flowing through a densely forested area. A bridge crosses the river in the middle of the frame. The surrounding land is covered in trees, with some cleared areas and buildings visible in the distance. The entire image has an orange tint.

**.0160**

**SUBDIVISION & LAND  
DEVELOPMENT STANDARDS**



# SUBDIVISIONS & LAND DEVELOPMENT

Applies to larger subdivisions AND development:  
(10 – 20)? acre threshold.

Lot size determined by underlying zoning except for  
riparian lot width of 200 feet in CA-ROS

Incentives for alternative design

Encourage dedication for river access

Clarified “primary conservation area” definition





# SUBDIVISIONS & DEVELOPMENT

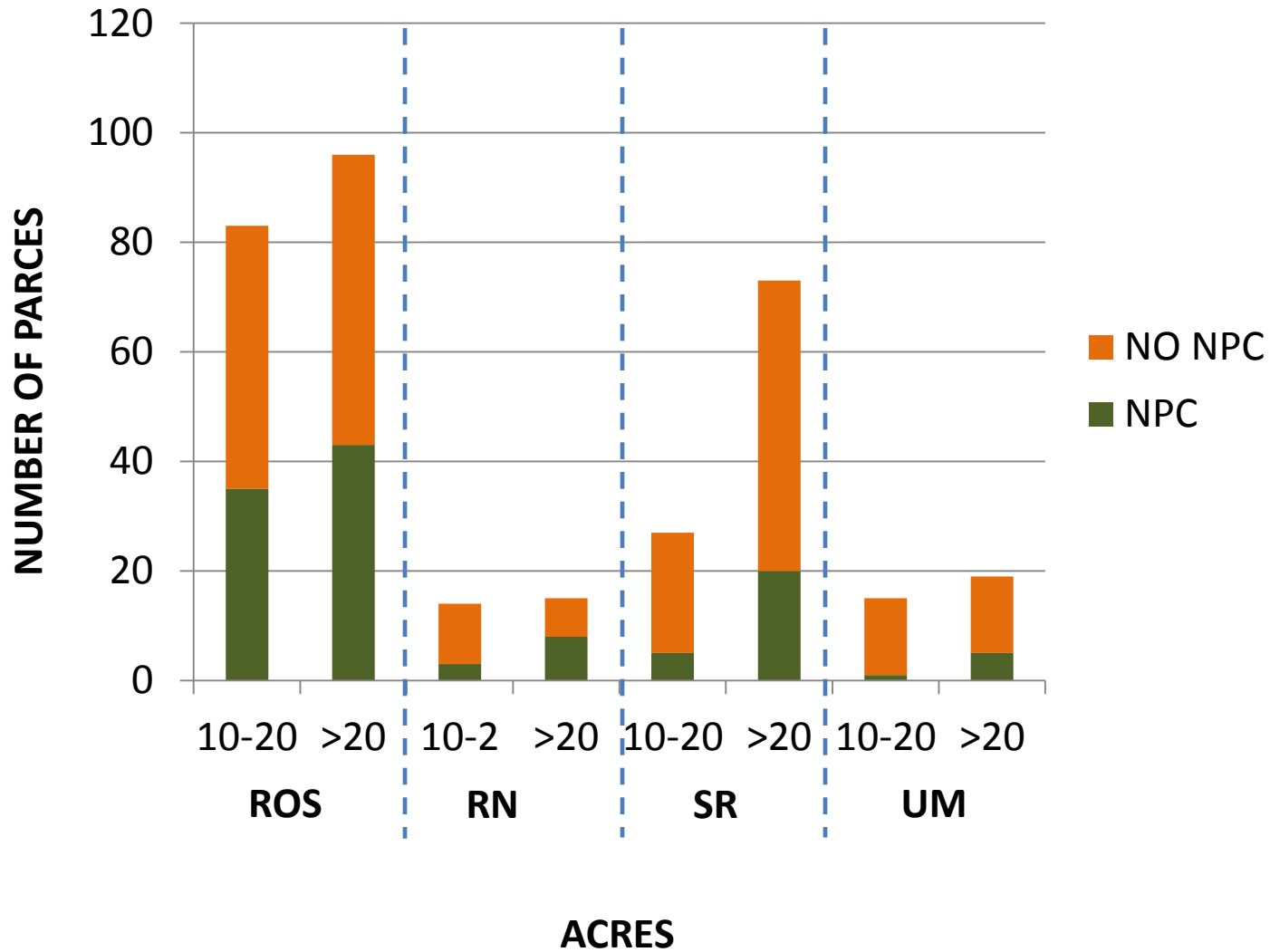
## Primary Conservation Areas:

- Shore impact zones
- Bluff impact zones
- Slope preservation zones
- Floodplains
- Wetland,
- Gorges
- Tributary confluence
- Natural drainage
- Unstable soils
- Bedrock
- Significant vegetative stands
- Tree canopies
- **Native plant communities**
- Public river corridor views
- Other scenic views
- Cultural & historic sites





# Developable Parcels with Native Plant Communities





# SUBDIVISIONS & DEVELOPMENT

**Must set aside primary conservation areas and permanently protect:**

<b>CA-ROS:</b>	<b>(30-50)%</b>
<b>CA-RN:</b>	<b>(20-30)%</b>
<b>CA-RTC, CA-UM, CA-UC:</b>	<b>(10-20)%</b>
<b>CA-SR with NPC or connection:</b>	<b>(10-20)%</b>

**If percent not met with primary conservation areas then,**

- Create areas of natural vegetation based on restoration areas in your plan**

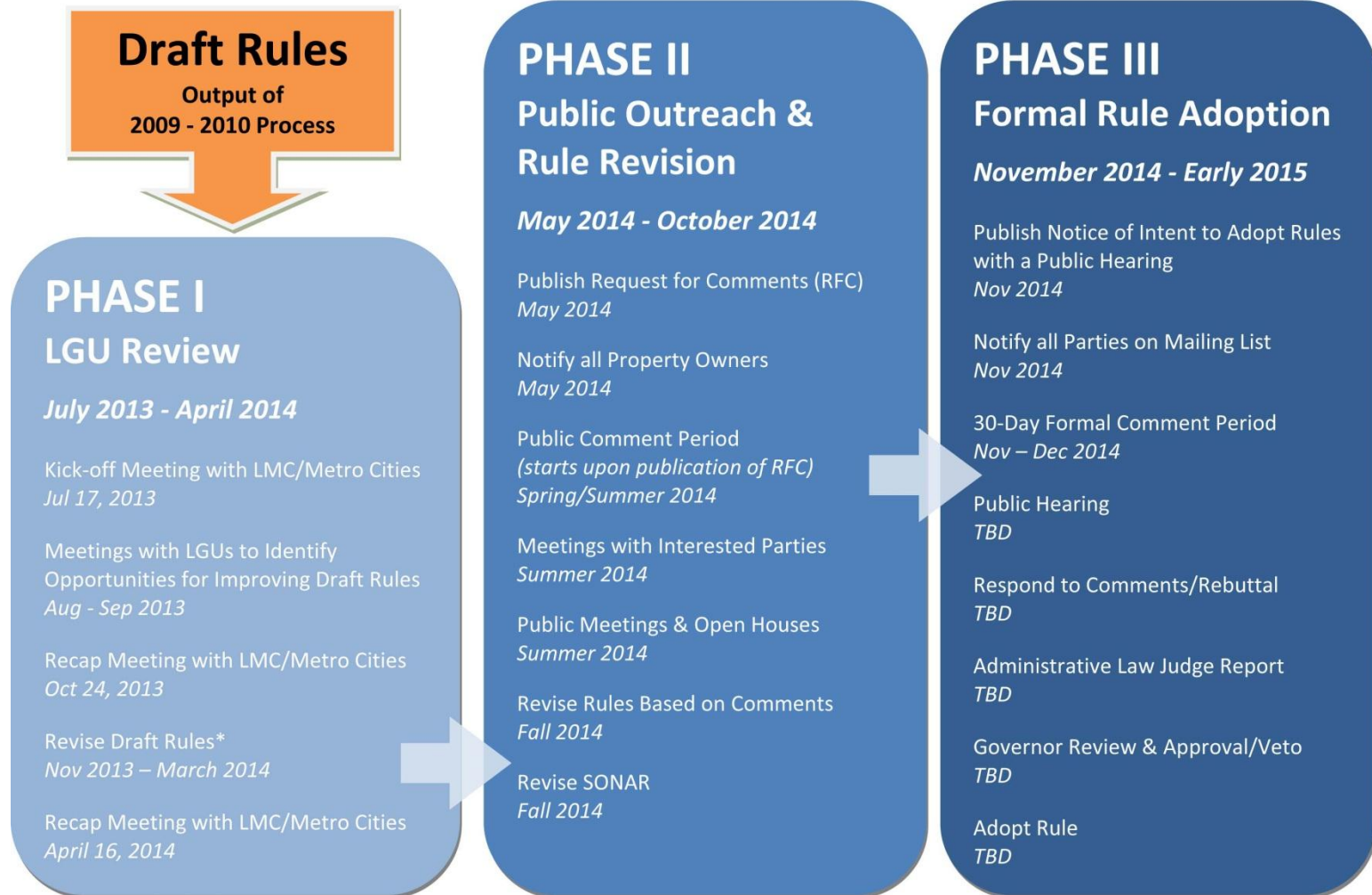
**Stormwater treatment & green infrastructure can meet coverage requirements with suitable habitat**





# NEXT STEPS.....

## 2013-2015 MRCCA Rulemaking Schedule



\*Report to Legislature submitted January 15, 2014

Minnesota Department of Natural Resources, last updated April 8, 2014





QUESTIONS & IMPRESSIONS!